

Notice of Allowability

Application No.

10/669,048

Examiner

John R. Hardee

Applicant(s)

JUREK ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the attached examiner's amendment.
2. ☒ The allowed claim(s) is/are 1,3,4,6-8 and 10-19.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

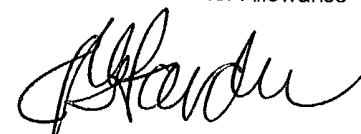
* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JOHN HARDEE
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. William Davis on November 12, 2004.

The application has been amended as follows:

At line 2 of claim 1, [2-50%] was replaced with ---5-20%---

At line 3 of claim 1, [50-98%] was replaced with ---80-95%---

At line 4 of claim 1, [0.03-80%] was replaced with ---40-70%---

At line 5 of claim 1, [0.002-40%] was replaced with ---0.05-29%---

At line 6 of claim 1, [0-60%] was replaced with ---0.15-40%---

At line 7 of claim 1, [0-30%] was replaced with ---0.5-15%---

At line 9 of claim 1, [0-10%] was replaced with ---0.005-6%---

Claims 2, 5 and 9 were cancelled.

In claim 12, after "composition", insert ---according to claim 1---

Claims 17 and 19 were made to depend from claim 1 only.

Claim 18 was made dependent from claim 17.

Allowable Subject Matter

2. Claims 1, 3, 4, 6-8 and 10-19 are allowed.

3. The following is an examiner's statement of reasons for allowance: The closest prior art of record is Aven, US 6,566,308; Narayanan, US 5,326,789; Adamy et al., US 5,641,742; and Chaudhuri et al., US 4,808,569. Aven and Narayanan disclose compositions comprising N-alkyl pyrrolidones and nonionic surfactants, but there is no clear motivation to add a fragrance. Adamy discloses microemulsions comprising 1-20% of an anionic surfactant; 0.1-50% of an n-alkyl pyrrolidone; 0-10% of a nonionic surfactant and 0.4-10% of a perfume or a hydrocarbon, the balance being water (abstract). This reads on original claim 1, as well as some of the dependent claims. Chaudhuri et al. discloses compositions which anticipate original claim 1, along with some of the dependent claims, except that it is not clear that the compositions are microemulsions (compositions C, F and J, at least). It would be incumbent on applicant to demonstrate that the exemplified compositions are not and cannot be microemulsions, or that unexpected properties arise from formulating compositions as claimed as microemulsions. These references do not anticipate or make obvious formulations according to the claims as now amended. Accordingly, the claims are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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4. Any prior art made of record and not relied upon is of interest and is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John R. Hardee
Primary Examiner
November 12, 2004